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Atari Interactive, Inc.

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

10
11 ATARI INTERACTIVE, INC.,

12 Plaintiff,

13 vs.

14 REDBUBBLE, INC.,

15 Defendant.

16 AND RELATED ACTIONS

Case No. 4:18-cv-03451-JST

[*Related to Case Nos. 3:18-cv-03843-JST; 3:18-cv-04115; 4:18-cv-04949-JST; and 4:19-cv-00264-JST*]

**DECLARATION OF KEITH J. WESLEY IN
SUPPORT OF ATARI INTERACTIVE,
INC.'S OPPOSITION TO REDBUBBLE,
INC.'S MOTION FOR SUMMARY
JUDGMENT AND REPLY IN SUPPORT OF
ITS MOTION FOR SUMMARY JUDGMENT**

Judge: Hon. Jon S. Tigar

Date: July 15, 2020

Time: 2:00 p.m.

Crtrm.: 6 - 2nd Flr.

DECLARATION OF KEITH J. WESLEY

I, Keith J. Wesley, declare and state as follows:

1. I am an attorney at law, duly admitted to practice before this Court and all courts of the State of California. I am a partner with Browne George Ross LLP, counsel of record for Plaintiff Atari Interactive, Inc. (“Atari”) in this matter. I have firsthand, personal knowledge of the facts set forth below and if called as a witness could and would competently testify thereto.

2. On December 10, 2019, I took the deposition of Redbubble, Inc.’s (“Redbubble”) Chief Supply Chain Officer Arnaud Deshais. True and correct copies of the cited portions from Mr. Deshais’ transcript are attached hereto as “**Exhibit A.**”

3. On December 11, 2019, I took the deposition of Redbubble’s Head of Marketplace Integrity Jenny Greenhough. True and correct copies of the cited portions from Ms. Greenhough’s transcript are attached hereto as “**Exhibit B.**”

4. On December 12, 2019, I took the deposition of Redbubble’s Asst. General Counsel James Toy, both in his individual capacity and as 30(b)(6) designee for Redbubble. True and correct copies of the cited portions from Mr. Toy’s transcript and the exhibits thereto are attached hereto as “**Exhibit C.**” (Private customer information contained in Exhs. 1024 & 1025 has been redacted per agreement with Redbubble.)

5. I am also lead counsel for Y.Y.G.M. SA d.b.a. Brandy Melville in the matter captioned *Y.Y.G.M. SA d.b.a. Brandy Melville v. Redbubble, Inc.*, Case No. 2:19-cv-04618-RGK (JPRx) in the Central District of California. In the Brandy Melville case, Redbubble served my office with a copy of a rebuttal expert report by Michael Masnick. True and correct copies of the relevant portions from this expert report are attached hereto as “**Exhibit D.**”

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1 Executed this 10th day of June 2020, at Los Angeles, California.

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct.

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8 Keith J. Wesley

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June, 2020, I electronically filed the foregoing
**DECLARATION OF KEITH J. WESLEY IN SUPPORT OF ATARI INTERACTIVE,
INC.'S OPPOSITION TO REDBUBBLE, INC.'S MOTION FOR SUMMARY JUDGMENT
AND REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT** with the
Clerk of the Court using the CM/ECF system which will send notification of such filing to the
following:

SERVICE LIST

Atari Interactive, Inc. v. Redbubble Inc.
U.S.D.C. N.D. CA, Oakland Division Case No. 4:18-CV-03451-JST
[Related to Case Nos. 3:18-cv-03843-JST; 3:18-cv-04115;
4:18-cv-04949-JST; and 19-cv-00264-JST]

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